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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,036	03/26/2004	Peter Rae Shintani	40000-0052	9541
20480	7590	10/17/2008	EXAMINER	
STEVEN L. NICHOLS			LONSBERRY, HUNTER B	
RADER, FISHMAN & GRAUER PLLC			ART UNIT	PAPER NUMBER
10653 S. RIVER FRONT PARKWAY				2421
SUITE 150				
SOUTH JORDAN, UT 84095				
MAIL DATE		DELIVERY MODE		
10/17/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)
	10/811,036	SHINTANI ET AL.
	Examiner	Art Unit
	HUNTER B. LONSBERRY	2623

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 August 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) The period for reply expires _____ months from the mailing date of the final rejection.
- b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) They raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) They raise the issue of new matter (see NOTE below);
 - (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. Applicant's reply has overcome the following rejection(s): _____.
6. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see below.
12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. Other: _____.

/Hunter B. Lonsberry/
Primary Examiner, Art Unit 2623

Applicant argues that Stewart does not teach a "control line extending into an interior of said building, said control line being connected to said amplifier circuit for controlling gain of a amplifier circuit." Applicant argues that while TSP 14 is in communication with distribution area via conductor 70 that there is no teaching or suggestion that the coax cable is used to control the gain of an amplifier circuit. (Page 15)

The Examiner respectfully disagrees.

<http://webopedia.com/TERM/a/amplifier.html> defines an amplifier as "An electronic device or electrical circuit that is used to boost (amplify) the power, voltage or current of an applied signal."

Stewart's TSP 14 with gain adjustment processing 60 clearly adjusts the gain of a signal (a function of an amplifier) and thus meets the definition of an amplifier. While the claims do not require A/D conversion, the open ended "comprising" language does not prohibit the additional step/circuitry.

Likewise TSP 14 is coupled with the TSR's via a communications line 70 (paragraphs 54-56). Figure 7, shows that this line is coupled to communications 76, which is in turn connected to the processor, which is in turn connected to Phase & Gain Adjustment & Summer signal processing 60. The requests original from the TSR's 20 which inform the processor 72 which channels to select and perform the gain operations on (paragraph 64). Further the examiner notes that there is no language requiring direct coupling.

Applicant has ignored the above argument and appears to consider a device adjusting gain on a digital signal to be different from applicant's invention. Applicant's current language is silent regarding an analog or digital signal whose gain is being adjusted.

Applicant argues that there is no connection in Stewart between a the gain of an amplifier circuit and a particular channel being tuned to with respect to claim 3 (page 19).

Claim 3 merely requires that the control signal is output based on a channel being tuned to by the TV. As paragraph 56 teaches that after a channel is tuned to by a tuner the gain is adjusted. If the control signal from the TV tells a tuner to tune to a channel, the gain will be adjusted.

Applicant argues that with regards to claim 7, Stewart fails to teach the claimed DC voltage for power an amplifier circuit plus an additional voltage that varies to indicate a desire gain of said amplifier circuit. (Page 19)

As a preliminary matter, the Examiner notes that paragraph 34 teaches the use of a preamp (not shown in figure 2) for the channels received by the antenna. Further Stewart's TSP 14 with gain adjustment processing 60 clearly adjusts the gain of a signal (a function of an amplifier) and thus meets the definition of an amplifier. While the claims do not require A/D conversion, the open ended "comprising" language does not prohibit the additional step/circuitry.

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Applicant argues with regards to claim 9, that because Stewart digitizes before digitally adjusting gain, Stewart does not teach the voltage controlled amplifier of claim 9. (Page 19).

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With regards to claim 10, Applicant argues there is no attenuator in Stewart.

The Examiner notes applicant has not responded to the previous inherency argument by the examiner.

Applicant argues that Stewart fails to teach or suggest claim 15.

The examiner directs applicant to figure 8 and paragraphs 62-63

Applicant argues that Stewart fails to teach a summer for combining signals from said 2 or more amplifiers.

See Stewart, figure 8 and paragraphs 62 and 63.

